



July 2, 2012

Dr. Gene Harris, Superintendent
Columbus City School District
270 E State St
Columbus, OH 43215

RE: CP 0074-2012; Letter of Findings

Dear Superintendent Harris:

After reviewing the information regarding the complaint concerning (hereinafter the "student") that was filed by Kimberly Brooks Tandy Esq., Executive Director, and Angela Chang, Attorney, Children's Law Center of Kentucky (hereinafter "the attorneys") against the Columbus City School District the Office for Exceptional Children has made the following findings:

Issue 1:

Whether Columbus City School District complied with the requirements of OAC § 3301-51-03 (A) (Child Find) and the Individuals with Disabilities Education Improvement Act (IDEA) and its implementing regulation at 34 C.F.R. §300.111 (Child Find). The attorneys for the student allege that Columbus City School District failed to ensure that the student with suspected disabilities who was residing in the Franklin County Correctional Center II, Jackson Pike Facility (hereinafter "FCCC II"), regardless of the severity of his disability was identified, located and evaluated.

The attorneys for the student allege that Columbus City School District failed to meet the district's obligation and failed to have child find policies and procedures that address students with suspected disabilities who are juvenile arrestees who are detained in FCCC II. The attorneys for the student allege that the student has a history of academic and behavioral challenges and that Columbus City School District failed to evaluate the student before he was detained or while he was detained in FCCC II.

Although the attorneys on behalf of the student allege a history of violations of child find, dating from the 2004 school year and ongoing, per the requirements of the IDEA at 34 C.F.R. §300.153, the complaint will be limited to one year prior to the date that the complaint was received by the Ohio Department of Education, Office for Exceptional Children. Since the complaint was received in this office on April 4, 2012, the timeframe of the complaint investigation will be from April 4, 2011 through the date of the receipt of the complaint in this office.

Facts:

- Both the attorneys for the student and the Columbus City School District (hereinafter “CCSD”) provided information regarding this complaint;
- Both the attorneys for the student and CCSD are hereby informed that this office will be making the findings of fact and issuing a letter of findings based on the timeframe from April 4, 2011 through the date of the receipt of the complaint in this office per the requirements of the IDEA;
- In addition, pursuant to this complaint investigation, the consultant assigned to this complaint also obtained information from Focused Learning Academy of Southwest Columbus (hereinafter “the community school”), FCCC II, the Correctional Center Reception Center, the Madison Correctional Institution, the Ohio Department of Rehabilitation and Correction, the Ohio Central School System and the Ohio Department of Youth Services;
- The attorneys who filed this complaint described it as an individual and systemic complaint (which was captioned by the attorneys as an individual and “class administrative complaint”) against the community school and/or CCSD;
- After the complaint was received in this office, it was separated into six complaints which consisted of four individual complaints and two systemic complaints;
- Two of the individual complaints were against CCSD and two individual complaints were against the community school, the remaining two complaints were assigned as follows: a systemic complaint against CCSD and a systemic complaint against the community school;
- All of the individual complaints were regarding the same two individual students;
- The attorneys who filed the complaint provided some identifying information regarding those two students; however they did not provide any identifying information regarding the students who may be part of the systemic complaints other than to state that those students were similarly situated as the two individual students;
- Due to the nature of how the allegations were raised, prior to issuing the letter of allegations and the letter of findings, an investigation had to be conducted to determine where the student in the above captioned complaint was residing and which district or entity was responsible for ensuring that he was evaluated under the IDEA if a disability was suspected;
- Although the formal written complaint makes references to actions that involve alleged violations by CCSD and/or the community school, both CCSD and the community school are separate entities;
- As part of the complaint investigation, it has been determined that CCSD is a school district located in Columbus, Ohio that serves a student population of over 50,000 students which has no jurisdiction or sponsorship of the community school;
- As part of the complaint investigation, it has been determined that the community school operates under Chapter 3314 of the Ohio Revised Code and has no jurisdiction over CCSD;
- As part of the complaint investigation, the consultant assigned to this complaint contacted the Ohio Department of Youth Services (hereinafter “DYS”) to determine if CCSD provides or ensures the provision of services to students with suspected disabilities and students with disabilities who are the responsibility of CCSD as the district of residence during the time period when these juvenile offenders are detained under the authority of DYS as the district of service;

- The information that was obtained showed that DYS stated that CCSD staff had worked with DYS staff to provide services to the aforementioned students which included ensuring that students that were suspected of having a disability were evaluated in accordance with the requirements of the IDEA;
- As part of the complaint investigation, some facts about the student were established;
 - The student was _____ and has attended several different schools during his academic career;
 - The student has a history of being involved in the juvenile justice system due to the offenses that he has committed;
 - Although the student has reported academic and behavioral difficulties, he was previously evaluated by CCSD in 2007 and determined not to be eligible;
 - There was no information obtained that showed that the parent disputed the determination nor did she file due process to dispute the determination;
- Although the above referenced information was provided by both the attorneys for the student and CCSD, the consideration as to whether there was a violation regarding the 2007 evaluation is outside of the timeframe for the complaint;
- At some point in time, after leaving CCSD, the student was enrolled as a regular education student in Mid-Ohio Educational Service Center, Abraxas School of Ohio from April 8, 2010 through July 8, 2010 and he was not identified as a student with a disability;
- According to the information from the Mid-Ohio Educational Service Center, the Abraxas School of Ohio is a residential treatment center for substance abuse;
- The consultant assigned to this complaint was able to determine that the student was last enrolled in CCSD at Brookhaven High School in CCSD where he attended in November 2010 for sixteen days and was expelled and then did not return to school;
- There was no data provided by any individual or entity that demonstrated that there was a request for an evaluation of the student during his enrollment in the high school during the 2010-2011 school year;
- A review of the information showed that CCSD lists the student as withdrawn as of April 14, 2011;
- From December 9, 2010 through April 14, 2011, the student was detained in Franklin County Juvenile Detention Center where he completed some work in core academic subjects;
- During the time that he was detained in Franklin County Juvenile Detention Center, there was no information provided to this office to support that an evaluation under the IDEA was requested by any individual or entity;
- There was no information obtained that supported that when the student was detained in FCCC II, any parent or other individual contacted CCSD to request an evaluation of the student under the IDEA;
- As part of this investigation, the consultant assigned to this complaint contacted FCCC II in order to determine if any parent or other individual contacted either CCSD or Focus Learning Academy of Southwest Columbus (hereinafter "the community school") to request an evaluation of the student under the IDEA;
- On April 14, 2011, the student was transferred to the adult system and was detained in FCCC II until he was transferred to a correctional institution;
- On May 4, 2012 he was sent to the Correctional Center Reception Center where he stayed for three days;

- On May 7, 2012, the student was sent to the Madison Correctional Institution which is under the authority of the Ohio Department of Rehabilitation and Correction;
- After being sent to the Madison Correctional Institution, the student was enrolled in the Ohio Central School System which is also under the authority of the Ohio Department of Rehabilitation and Correction;
- According to the Ohio Central School System, the following procedures are utilized with juvenile offenders:
 1. Offenders under the age of eighteen stay at the reception center no more than 3 days.
 2. That it is the practice of the Ohio Central School System to interview offenders about their educational history upon arrival in the Ohio Department of Rehabilitation and Correction.
 3. Pursuant to the requirements of the Individuals with Disabilities Education Improvement Act (IDEA), if the student is under the age of 22, the offenders (students) are specifically asked if they previously received special education services or if they have any special learning needs.
 4. The Ohio Central School System requests records from the offender's former school, including any educational records pertaining to special education needs, if the response indicates that the offender is in need of special education services, they are placed in school immediately and an assessment process begins.
 5. Offenders who do not indicate a need for special education services can still be referred by any staff member who suspects that an offender has such a need.
 6. The offender and the parent may also at any request an evaluation to determine eligibility for special education services under the IDEA.
- According to the Ohio Central School System, the student was enrolled as a regular education student in school on May 31, 2012;
- Per the information obtained from Ohio Central School System, there was no information that demonstrated that he was in need of special education services or that any records obtained from other local educational agencies indicated that he was in need of a referral for evaluation;
- The Ohio Central School System reported that the student did not identify himself as being in need of an evaluation or in need of special education services as a student with disabilities;
- During a telephone interview with the superintendent of the Ohio Central School System conducted by the consultant assigned to this complaint, the concerns of the attorneys for this student were shared;
- In response to the concerns that were shared regarding this student, the superintendent informed this office that she would have the staff interview the student again to see if he was in need of evaluation;
- The superintendent also informed this office that she would ensure that a review of information from the staff and others occurred in order to determine if the student was in need of evaluation under the IDEA;
- The community school provided information regarding this issue as well;
- A review of the information provided by the community school showed that the student was never enrolled in the community school;

- There was no information obtained through the investigation that showed that the student was enrolled in the community school during the timeframe specified in this complaint;
- The community school informed this office that they did not contact either CCSD or FCCC II regarding this student because this student had never been enrolled in the community school and they had no knowledge to provide to CCSD about this student;
- There was no information that was obtained that showed that any individual had made a request for an evaluation of the student to CCSD or the community school;
- The FCCC II staff did not indicate that they had referred the student to either CCSD or the community school for an evaluation or services;
- The FCCC II staff did not have any information that would have indicated that the student was in need of an evaluation;
- A review of the student's academic history showed that he attended several different schools and had never been identified as a student with a disability;
- A review of the student's academic history showed that he had a pattern of enrolling in school and failing to attend;
- There was no information that was obtained from the schools that he attended that would support that he had been identified as a student with a disability;
- There was no information provided to CCSD that would indicate that CCSD should evaluate the student pursuant to a child find obligation; and
- The information that was obtained from the student's current placement at Ohio Central School System did not show that the student was suspected of having a disability and was in need of an evaluation.

Findings:

School districts are required by both the IDEA and the *Operating Standards for Ohio's Schools Serving Children with Disabilities* to have child find policies and procedures that ensure that all children with disabilities, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located and evaluated.

A review of the evidence that was obtained through the complaint investigation showed that neither CCSD nor the community school had any information to support that the student was suspected of having a disability. The community school had no obligation to evaluate the student since the student was never enrolled in the community school.

The student had been enrolled in CCSD, but was withdrawn as of April 14, 2011. During the time of the student's most recent enrollment at CCSD in the high school, no individual or entity requested an evaluation of the student. The evidence that was obtained through the investigation also showed that the student had not been identified as a student with a disability during his academic career previous to being detained in FCCC II.

During the time period that the student was detained in FCCC II, no individual or entity requested that either CCSD or the community school evaluate the student. The evidence that was obtained through the investigation did not demonstrate that the student's parent or any individual acting on behalf of the student had requested an evaluation of the student to determine whether the student was eligible for services under the IDEA. The student was a

regular education student during the time period that he was detained in FCCC II. Therefore, CCSD was not obligated to evaluate or provide services to the student.

School districts other than the school district of residence are responsible for serving a child with a disability who is living in its school district, even though the school district is not the district of residence. If the student had been suspected of having a disability, CCSD would have had an obligation to evaluate the student and provide services to the student, if the student had been determined eligible under the IDEA. The child's school district of residence retains responsibility for ensuring that FAPE is made available to the child.

During the course of the investigation, the student was transferred to the adult system and he was placed under the authority of the Ohio Department of Rehabilitation and Correction. The student was enrolled in the Ohio Central School System which operates under the authority of the Ohio Department of Rehabilitation and Correction.

The evidence that was obtained through the investigation did not support that the Ohio Central School System suspected that the student has a disability. The evidence showed that the student was placed in the school as a regular education student.

As discussed above under the facts for this issue, the Ohio Central School System has a system in place to address the needs of offenders under the age of 22 who may be eligible for services under the IDEA.

Based on a review of the evidence that was obtained through this investigation, CCSD is not in violation of OAC § 3301-51-03 (A) (Child Find) and the IDEA and its implementing regulation at 34 C.F.R. §300.111 (Child Find) with respect to this issue.

Corrective action: None required.

Issue 2:

Whether Columbus City School District complied with the requirements of the IDEA and its implementing regulations at 34 C.F.R. §300.301(Initial evaluations), 34 C.F.R. §300.320 (individualized education program) and 34 C.F.R. §300.324 (Development, review, and revision of the IEP) and OAC 3301-51-01(A) (2) (a) (School district of residence), and OAC 3301-51-01(A) (3) (b) (School district other than school district of residence) during the 2011-2012 school year.

The attorneys for the student allege that Columbus City School District failed to evaluate the student when the student was detained in FCCC II and denied the student an educational program that was reasonably calculated to provide the student with an educational benefit as required by IDEA.

The attorneys for the student allege that during the time that the student was detained in FCCC II, Columbus City School District failed to address the educational and other needs of the

student that resulted from the student's suspected disability. The attorneys for the student allege that the student has a history of academic and behavioral difficulties which should have led to an evaluation under the IDEA.

Although the attorneys on behalf of the student allege a history of violations of the IDEA and the Operating Standards dating from the 2004 school year and ongoing, per the requirements of the IDEA at 34 C.F.R. §300.153, the complaint will be limited to one year prior to the date that the complaint was received by the Ohio Department of Education, Office for Exceptional Children. Since the complaint was received in this office on April 4, 2012, the timeframe of the complaint investigation will be from April 4, 2011 through the date of the receipt of the complaint in this office.

Facts:

- Both the attorneys for the student and CCSD provided information regarding this complaint;
- Both the attorneys for the student and CCSD are hereby informed that this office will be making the findings of fact and issuing a letter of findings based on the timeframe from April 4, 2011 through the date of the receipt of the complaint in this office per the requirements of the IDEA;
- As discussed above under the facts for Issue 1, pursuant to this complaint investigation, the consultant assigned to this complaint also obtained information from FCCC II, , the Correctional Center Reception Center, the Madison Correctional Institution, the Ohio Department of Rehabilitation and Correction, the Ohio Central School System and the Ohio Department of Youth Services;
- Also as discussed above, the attorneys who filed this complaint described it as an individual and systemic complaint (which was captioned by the attorneys as an individual and "class administrative complaint") against CCSD and/or the community school;
- After the complaint was received in this office, it was separated into six complaints which consisted of four individual complaints and two systemic complaints;
- Two of the individual complaints were against the community school and two individual complaints were against CCSD, the remaining two complaints were assigned as follows: a systemic complaint against CCSD and a systemic complaint against the community school;
- All of the individual complaints were regarding the same two individual students;
- The attorneys who filed the complaint provided some identifying information regarding those two students; however they did not provide any identifying information regarding the students who may be part of the systemic complaints other than to state that those students were similarly situated as the two individual students;
- Due to the nature of how the allegations were raised, prior to issuing the letter of allegations and the letter of findings, an investigation had to be conducted to determine where the student in the above captioned complaint was residing and which district or entity was responsible for ensuring that he was evaluated under the IDEA if a disability was suspected;
- As part of the complaint investigation, it has been determined that the community school operates under Chapter 3314 of the Ohio Revised Code and CCSD has no jurisdiction or sponsorship of the community school;

- Although the formal written complaint makes references to actions that involve alleged violations by CCSD and/or the community school, CCSD is a school district in Columbus, Ohio that serves over 50,000 students;
- The community school is a separate entity that is not sponsored by CCSD nor is it funded by CCSD;
- As part of the complaint investigation, it has been determined that CCSD and the community school have no jurisdiction over each other;
- As discussed under the facts for Issue 1, per the complaint investigation, some facts about the student were established;
 - The student was _____ and has attended several different schools during his academic career;
 - The student also has a history of being involved in the juvenile justice system due to the offenses that he has committed;
 - Although the student has reported academic and behavioral difficulties, he was previously evaluated by CCSD in 2007 and determined not to be eligible;
 - There was no information obtained that showed that the parent disputed the determination nor did she file due process to dispute the determination;
- Although the above referenced information was provided by both the attorneys for the student and CCSD, the consideration as to whether there was a violation regarding the 2007 evaluation is outside of the timeframe for the complaint;
- The consultant assigned to this complaint was able to determine that the student was last enrolled at a high school in CCSD where he attended in November 2010 for sixteen days and was expelled and then did not return to school;
- A review of the information showed that CCSD lists the student as withdrawn as of April 14, 2011;
- From December 9, 2010 through April 14, 2011, the student was detained in Franklin County Juvenile Detention Center where he completed some work in core academic subjects;
- There was no information that was obtained through this investigation that would support that the staff at the Franklin County Juvenile Detention Center suspected that the student had a disability;
- There was no information that was obtained through this investigation that would support that the staff at the Franklin County Juvenile Detention Center referred the student to CCSD for an evaluation, and the development of the IEP, if the student had been determined eligible;
- On April 14, 2011, the student was transferred to the adult system and was detained in FCCC II;
- On May 4, 2012 he was sent to the Correctional Center Reception Center where he stayed for three days;
- On May 7, 2012, the student was sent to the Madison Correctional Institution which is under the authority of the Ohio Department of Rehabilitation and Correction;
- After being sent to the Madison Correctional Institution, the student was enrolled in the Ohio Central School System which is also under the authority of the Ohio Department of Rehabilitation and Correction;
- The procedures by which the Ohio Central School System identifies, locates, evaluates and serves students with disabilities is described under the facts for Issue 1;

- According to the Ohio Central School System, the student was enrolled in school as a regular education student on May 31, 2012;
- Per the information obtained from Ohio Central School System, there was no information that demonstrated that he was in need of special education services or that any records obtained from other local educational agencies indicated that he was in need of a referral for evaluation or for the development of an IEP, if he had been deemed eligible;
- The Ohio Central School System reported that the student did not identify himself as being in need of an evaluation or in need of special education services as a student with disabilities;
- During a telephone interview with the superintendent of the Ohio Central School System conducted by the consultant assigned to this complaint, the concerns of the attorneys for this student were shared;
- In response to the concerns that were shared regarding this student, the superintendent informed this office that she would have the staff interview the student again to see if he was in need of an evaluation;
- The superintendent also informed this office that she would ensure that a review of information from the staff and others occurred in order to determine if the student was in need of an evaluation under the IDEA;
- The community school provided information regarding this issue as well;
- A review of the information provided by the community school showed that the student was never enrolled in the community school;
- There was no information obtained through the investigation that showed that the community school had not made CCSD aware of the student's need for services because the community school had no knowledge of the student;
- There was no information that was obtained that showed that any individual had made a request for an evaluation of the student to CCSD;
- There was no information that was obtained that showed that any individual had requested that CCSD provide services to student due to a suspected disability;
- There was no information that was obtained that showed that any individual had requested that CCSD provide the student with an IEP;
- There was no information obtained that showed that the student had been determined eligible under the IDEA during the timeframe of this complaint;
- There was no information obtained that showed that the student had a right to services under the IDEA as a student with disabilities;
- There was no information obtained that showed that the CCSD was obligated to develop an IEP for the student and provide services to the student or to ensure that services were provided to the student;
- The FCCC II staff did not indicate that they had referred the student to CCSD for an evaluation or services;
- The FCCC II staff did not have any information that would have indicated that the student was in need of an evaluation or an IEP;
- The information that FCCC II had regarding the student indicated that the student was a regular education student;
- The information that was obtained from DYS and CCSD showed that CCSD staff works with DYS staff to ensure that students with disabilities (who are the responsibility of CCSD) are appropriately served;

- CCSD has ensured this office that they are willing to work with the FCCC II to ensure that any juvenile arrestees who have suspected disabilities; or who are in need of special education services are appropriately served in accordance with the requirements of the IDEA and the applicable requirements of the *Operating Standards for Ohio's Schools Serving Children with Disabilities*; and
- There was no information that was obtained that demonstrated that CCSD was obligated to provide services for the student as a regular education student.

Findings:

The school district of residence is responsible, in all instances, for ensuring that the requirements of Part B of the IDEA are met for every eligible child in its jurisdiction by making a free appropriate public education (FAPE) available, regardless of whether services are provided by another educational agency, juvenile justice facility, or other facility, agency, department, or entity unless Chapter 3323 of the Revised Code, or a rule adopted by the state board of education specifies that another school district, other educational agency, or other agency, department or entity is responsible for ensuring compliance with Part B of the IDEA.

School districts other than the school district of residence are responsible for serving a child with a disability who is living in its school district, even though the school district is not the district of residence. The child's school district of residence retains responsibility for ensuring the FAPE is made available to the child.

The evidence that was obtained through this investigation did not show that CCSD was obligated to conduct an initial evaluation of this student and to develop an IEP for the student, if the student had been determined eligible under the IDEA.

Nor did the evidence support that CCSD had an obligation to provide services to the student or to ensure that the student was served while the student was detained in FCCC II, and before the student was placed under the authority of the Ohio Department of Rehabilitation and Correction.

CCSD is not in violation of the IDEA and its implementing regulations at 34 C.F.R. §300.301 (Initial evaluations), 34 C.F.R. §300.320 (individualized education program) and 34 C.F.R. §300.324 (Development, review, and revision of the IEP), OAC 3301-51-01(A) (2) (a) (School district of residence), and OAC 3301-51-01(A) (3) (b) (School district other than school district of residence) with respect to this issue.

Corrective action: None required.

